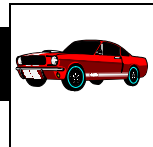


# **NEW MAGISTRATE TRAFFIC ADJUDICATION MANUAL**





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= **RED FLAG (Important  
Information)**



= **RETURN MATERIALS to  
Michigan Judicial Institute**

## ACKNOWLEDGMENTS

In 1979, the State Court Administrator designated the Michigan Judicial Institute to develop and implement “a special training course in traffic law adjudication and sanctions” for new district court magistrates. MCL 600.8512(2); MSA 27A.8512(2). As a result, MJJ designed this manual as part of a self-instructional training process that new magistrates must complete prior to conducting informal hearings. The current version of the manual is the fourth revision since the first edition was published in 1979.

The original manual was written in 1979 after the Michigan Legislature made a fundamental change in the laws governing the handling of traffic cases. Most of the traffic offenses were decriminalized and became “traffic civil infractions” instead of misdemeanors. This change had a major and immediate impact on district court magistrates. Traffic civil infractions were to be thereafter adjudicated in formal or informal hearings instead of trials, and district court magistrates were authorized to conduct the informal hearings. As a result, MJJ began designing a process to train current and newly appointed magistrates to conduct informal hearings. MJJ contracted with Mid-America Research, Inc. in Ann Arbor, Michigan, to develop a self-instructional training manual for magistrates. With the assistance of an advisory committee of magistrates and judges, the first edition of the New Magistrate Manual was published and distributed in 1979.

In 1985, the Michigan Judicial Institute began the first revision of the magistrate training package with funding from the Office of Highway Safety Planning. MJJ updated and revised the training materials with the help of a planning committee comprised of magistrates and district court judges from across the state. Additionally, the Michigan Speed Measurement Task Force (then known as the Michigan Radar Task Force) provided the technical expertise to add a chapter on the use of traffic radar. The Michigan State Police produced a radar training videotape to accompany the training package.

In 1989, MJJ revised the training package a second time, modifying both the format and content of the materials. As before, the Office of Highway Safety Planning funded the revision. Once again, a planning committee of magistrates and a district court judge provided technical assistance. A new videotape to accompany Unit 5 was produced by Gardner Communications of Ann Arbor.

Continued changes in the law required a third revision of the training manual in the summer of 1996. Unit 7 on Laser Speed Measurement was added at this time due to the increasing use of laser devices by police officers in Michigan. The fourth and current revision of the training manual took place in 2003. The following individuals were responsible for this latest revision of the training materials for new magistrates:

### **Units 1, 2, 3, 4, and 5**

*Technical assistance provided by:*

Magistrate Dena Altheide .....67th District Court  
Magistrate Krista Krause .....54A District Court  
Magistrate Ted Johnson.....35th District Court  
Magistrate Charles Pope ..... 14B District Court  
Ms. Sandra Hartnell ... State Court Admin. Office

### **Units 6 and 7**

*Technical assistance provided by:*

Michigan Speed Measurement Task Force  
Training Committee

### **Michigan Judicial Institute Staff:**

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Page Layout and Design.....Mary Ann McDaid  
Proofing and Materials Coordination ... Cathy Cecot

## DIRECTORY OF OVERVIEW QUESTIONS

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## OVERVIEW OF THE TRAINING PACKAGE

The enclosed materials provide the information and training that is required before a district court magistrate can perform informal hearings. You must complete all of the units, the radar ride-along, and the magistrate instructor visitation *before* you conduct an informal hearing.

The overview that follows is written in a question and answer format.

### **Why must you complete this training?**

The authority that requires the training of a magistrate prior to conducting informal hearings comes from MCL 600.8512.

(1) 600.8512. District Court magistrates; jurisdiction in civil infraction proceedings. Sec. 8512(1) A district court magistrate may hear and preside over civil infraction admissions and admissions with explanation and conduct informal hearings in civil infraction actions pursuant to section 746 of Act No. 300 of the Public Acts of 1949, being section 257.746 of the Michigan Compiled Laws. In exercising the authority conferred by this subsection, the magistrate may administer oaths, examine witnesses, and make findings of fact and conclusions of law. If the defendant is determined to be responsible for a civil infraction, the magistrate may impose the civil sanctions authorized by section 907 of Act No. 300 of the Public Acts of 1949, being Section 257.907 of the Michigan Compiled Laws.

**(2) A district court magistrate shall not conduct an informal hearing in a civil infraction action involving a traffic or parking violation until he or she has successfully completed a special training course in traffic law adjudication and sanctions, which shall be given periodically by the state court administrator.**

(3) A district court magistrate may exercise authority conferred by this section only to the extent expressly authorized by the chief judge, presiding judge, or only judge of the district court district.

The Michigan Judicial Institute has been designated by the State Court Administrator to develop, monitor and control this training process. All inquiries into the training of magistrates to perform informal hearings should be directed to the Institute.

## **Is everything you need to know to perform your duties as a magistrate included in this training package?**

MJI's new magistrate training is designed to prepare magistrates to adjudicate civil traffic matters. However, magistrates' responsibilities are not always limited to conducting informal hearings. Magistrates whose responsibilities require additional skills and information are referred to the list of resources that follows:

- Your court's policies and procedures including: local court rules, sanction guidelines of civil infractions, fine and cost schedule, etc.
- The Michigan Judicial Institute program schedule, available at <http://courts.michigan.gov/mji/seminars/mjisedule02-03.htm>
- The Michigan Judicial Institute Resource Library Catalog, available at <http://216.120.158.94/resources/resources.html>

## **What will you be able to do after completing this training package?**

After completing this training package, you will be able to:

- Adjudicate traffic cases.
- Apply the technical information acquired during training in your court setting.

## **What must you do to become provisionally authorized to conduct informal hearings?**

- Complete the training package. This includes:
  - 1) Units 1-7
  - 2) Videotapes
  - 3) Review/Instructional Activities
  - 4) Unit Evaluations
- Ride with a State of Michigan certified radar operator. (If you are unable to locate a certified radar operator in your vicinity, please contact MJI for the name of a qualified individual in your area.)
- Visit an assigned magistrate instructor.
- Submit the *Judge's Authorization Form* to MJI.
- Return all items on Checklist to MJI (see page 13).
- **Await written authorization from the State Court Administrative Office before conducting informal hearings.**

## Overview

### How are these training materials organized?

Items by Color:

- Unit Text is **White**.
- Unit Reviews/Instructional Activities are **Yellow**.
- Answer Keys are **Yellow**.
- All Materials to be Returned to MJJ are **Pink** and include:
  - 1) Unit Evaluations
  - 2) Judge's Authorization Form
  - 3) New Magistrate Biographical Data Survey
  - 4) Traffic Radar Ride-Along Checklist
  - 5) Magistrate Instructor Visitation Notice of Completion
  - 6) Checklist of Training Materials to be Returned

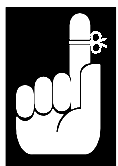
### Once you have completed this training, what should you do with these materials?

You may keep:

- The binder containing Units 1-7.
- All additional reference materials provided by MJJ.

You must return:

- The *Checklist of Training Materials to be Returned to MJJ* (see page 13).
- All items that are on the checklist.



**Please note that two addresses are given for the Michigan Judicial Institute — a P.O. Box and a street address. If you are returning videotapes and materials via UPS or Federal Express, you must use the street address. Regular U.S. mail correspondence should be sent to the P.O. Box.**

### How long will it take you to complete the training leading to provisional authorization?

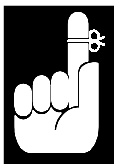
The time will vary for each individual. However, based on past experience, we suggest that you allow at least three days to review the materials and tapes and perform the ride-along with a radar operator. Another day will be needed for your magistrate visitation. Your training should be completed within 30 days.

After you have completed and returned all the materials shown on the Checklist (see page 13) to MJJ, your judge should receive notification of your provisional authorization within two to three weeks.



## What must you do to become permanently authorized to conduct informal hearings?

- Become provisionally authorized to conduct informal hearings.
- Attend the New Magistrates Seminar offered annually by MJJ. (You will receive notification of the time and location.)



**If you do not attend MJJ's New Magistrates Seminar, you will lose your provisional authorization to conduct informal hearings.**

## Have you received a complete training package?

The following is a list of materials that you should have received. As you view your training package videotapes, please note that references may be made on the tape to units that have been renumbered as a result of the 1996 Traffic Adjudication Manual revision. These changes are as follows:

Unit	Unit Text	Videotape: Current Unit Assignment	Videotape: Previous Unit Assignment
Unit 1	x	none	
Unit 2	x	none	
Unit 3	x	none	
Unit 4	x	none	
Unit 5	x	Adjudication of Traffic Law	4
Unit 6	x	Radar: Speed Measurement	
Final Review	x	Informal Hearings	6

Additional reference materials that have been included:

- Handbook of Legal Terms
- Michigan Vehicle Code
- Michigan Judicial Institute Traffic Benchbook CDROM, Volumes 1 & 2
- Michigan Judicial Institute Monographs 1 & 2, and 3 & 4
- Michigan Judicial Institute Domestic Violence Benchbook
- Michigan Judicial Institute Guide to Vehicle Immobilization
- Truck Driver's Booklet



## Checklist of Training Materials to be Returned

Please return this form with the following materials to the Michigan Judicial Institute.

To be checked by Magistrate:

- ☐ Unit 6: *Radar: Speed Measurement*
- ☐ Unit 5: *Adjudication of Traffic Cases Videotape*
- ☐ Final Review: *Informal Hearings Videotape*
- ☐ New Magistrate Biographical Data Survey
- ☐ Judge's Authorization Form
- ☐ Unit Evaluations
- ☐ Magistrate Instructor Visitation Notice of Completion
- ☐ Traffic Radar Ride-Along Checklist

These items must be returned to the Michigan Judicial Institute within 30 days of receipt of the materials. If you are returning the items via UPS or Federal Express, please use the following address:



Michigan Judicial Institute  
Michigan Hall of Justice  
925 West Ottawa Street  
Lansing, MI 48915

If you are returning the items via U.S. mail, please use the following address:

Michigan Judicial Institute  
P.O. Box 30205  
Lansing, MI 48909



# Judge's Authorization Form

(please type)

Court: \_\_\_\_\_

Court Address: \_\_\_\_\_  
\_\_\_\_\_

Court Telephone Number: \_\_\_\_\_

I hereby state to the best of my knowledge that Magistrate \_\_\_\_\_ has completed the following items for Step One of the Magistrate Authorization Process.

- ☐ Reviewed Units 1-7
- ☐ Completed the ride-along with a state-certified radar operator
- ☐ Completed a one-day visitation with a selected magistrate instructor

Date \_\_\_\_\_ Chief Judge's Signature \_\_\_\_\_

## To Maintain Accurate Records, Please Answer the Following:

Is the new magistrate replacing a previous magistrate?

\_\_\_\_\_ Yes      \_\_\_\_\_ No

Name of previous magistrate: \_\_\_\_\_



Please Return to:  
**Michigan Judicial Institute**



# New Magistrate Biographical Data Survey

(please print)

- 1) Date: \_\_\_\_\_
- 2) Your Name: \_\_\_\_\_
- 3) Court: \_\_\_\_\_
- 4) Court Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 5) Indicate your highest level of educational background:
- \_\_\_\_\_ High school diploma or G.E.D. equivalent
- \_\_\_\_\_ Some college
- \_\_\_\_\_ Associate's Degree
- \_\_\_\_\_ Bachelor's Degree
- \_\_\_\_\_ Law Degree
- \_\_\_\_\_ Other Graduate Degree
- \_\_\_\_\_ Other (Specify: \_\_\_\_\_ )
- 6) Please check your most recent employment:
- \_\_\_\_\_ State Police
- \_\_\_\_\_ Local Law Enforcement Officer
- \_\_\_\_\_ District Court Employee (Job Title: \_\_\_\_\_ )
- \_\_\_\_\_ Other Court Employee (Court: \_\_\_\_\_ Job Title: \_\_\_\_\_ )
- \_\_\_\_\_ Attorney (private practice)
- \_\_\_\_\_ Attorney (governmental agency)
- \_\_\_\_\_ Retired from one of the above professions
- \_\_\_\_\_ Other (Specify: \_\_\_\_\_ )

## Overview

- 7) Have you read the Administrative Order that describes the specific duties delegated to you as magistrate?

\_\_\_\_\_ Yes \_\_\_\_\_ No

- 8) Check the following that applies to you:

\_\_\_\_\_ Full-time Magistrate (30-40 hours/week on magistrate functions only)

\_\_\_\_\_ Part-time Magistrate

\_\_\_\_\_ Backup Magistrate

- 9) Will you also be performing the role of Court Administrator?

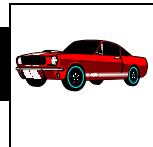
\_\_\_\_\_ Yes \_\_\_\_\_ No



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**Michigan Judicial Institute**



# TRAFFIC RADAR RIDE-ALONG CHECKLIST



**Magistrate's Name** \_\_\_\_\_

**District Court** \_\_\_\_\_

**Date of Ride-Along** \_\_\_\_\_

**Name of Radar Operator**  
**Instructor for Ride-Along** \_\_\_\_\_

**Radar Operator's Agency** \_\_\_\_\_

The following is a list of activities that the radar operator should review with you during your ride-along. Check off the activities as they are completed.

## **A. Set Up Procedure:**

- ☐ 1) Demonstrate an operational understanding of the proper mounting of the readout module and antenna, i.e., properly and safely positioned, firmly attached, windshield and antenna cleaned, etc.
- ☐ 2) Demonstrate how to properly aim the unit's antenna.
- ☐ 3) Demonstrate how to connect the power source, i.e., initial power off, location and function of unit's fuse, proper size of unit's fuse, unit's Task Force certification number, etc.

## **B. Verification Procedure:**

Demonstrate the following:

- ☐ 1) Low voltage check.
- ☐ 2) Light segment tests.
- ☐ 3) Internal circuit test (checks only the operation of the readout module).
- ☐ 4) External verification check: moving check against a calibrated speedometer (checks the operation of the readout module and antenna), and verifies that Doppler audio tone correlates with patrol vehicle speed.
- ☐ 5) Audio check to determine the unit's ability to produce tone.
- ☐ 6) The unit is capable of obtaining and displaying speeds for target vehicles within the expected operational area of the beam.

**C. Components and Features:**

Demonstrate:

- ☐ 1) Range control.
- ☐ 2) Fuse location and appropriateness of size.
- ☐ 3) RFI indicator.
- ☐ 4) Speed display windows and function.
- ☐ 5) Audio volume control.
- ☐ 6) Low voltage indicator.
- ☐ 7) RF hold switch.
- ☐ 8) Manual lock (understands disadvantage without second target window).
- ☐ 9) Squelch/unsquelch.

**D. Target Identification Procedure:**

Demonstrate:

- ☐ 1) Position.
- ☐ 2) Size.
- ☐ 3) Shape.
- ☐ 4) Composition.
- ☐ 5) Speed.
- ☐ 6) Shows discretion in multiple target situations.
- ☐ 7) Demonstrates an understanding of the proper use of range control, i.e., considers location and target vehicle density.
- ☐ 8) Radar operation on two-lane and four-lane roads and on a variety of terrains (hills, curves, etc.)

**E. Tracking History Procedure:**

**1. Stationary Mode**

Demonstrate:

- ☐ 1) Target appears to be within the operational area of the beam.
- ☐ 2) Visual estimation of speed.
- ☐ 3) Audio is consistent with target speed display.
- ☐ 4) Displayed target speed corresponds with audio and visual estimation.

## 2. Opposite Direction Moving-Mode

Demonstrate:

- ☐ 1) Target appears to be within the operational area of the beam.
- ☐ 2) Visual estimation of speed.
- ☐ 3) Audio is consistent with target speed display.
- ☐ 4) Displayed target speed corresponds with audio and visual estimation.
- ☐ 5) Patrol speed display corresponds with a calibrated speedometer.

## F. Factors Which May Affect Radar Displays:

Discuss or Demonstrate:

- ☐ 1) Cosine (both moving and stationary).
- ☐ 2) Batching.
- ☐ 3) Shadowing.
- ☐ 4) Scanning.
- ☐ 5) Panning.
- ☐ 6) Spurious displays (i.e., C.B. effect, 2-way radio effect, fans, transformers, overhead lights, etc.).

Radar Operator Instructor \_\_\_\_\_

Date \_\_\_\_\_



Please Return to:  
**Michigan Judicial Institute**



# **ONE-DAY MAGISTRATE INSTRUCTOR VISITATION**



# **Goals and Objectives of Magistrate Instructor Visitation**

## **Goal**

To apply the skills and knowledge gained from the New Magistrate Traffic Adjudication Manual to specific informal hearing cases.

## **Objectives**

Participants will be able to:

- Observe Magistrate Instructor preparing and conducting several informal hearings.
- Identify key areas in informal hearings as listed in the basic guidelines on pages 27 through 28.
- Perform the informal hearing procedural steps according to the guidelines on page 27.

## **One-Day Magistrate Trainee Agenda**

- Overview of Court Procedures (will vary from court to court)
- Informal Hearing Preparation
- Review of Scheduled Cases Prior to Informal Hearing
- The Informal Hearing Setting
- Location of Parties and Procedure for Calling Cases
- Observation of Informal Hearing
- Debriefing of Informal Hearing
- Review of Informal Hearing Guidelines
- Evaluation and Wrap-Up

## Guidelines for Informal Hearing

### INSTRUCTIONS:

The following lists and guidelines are designed to aid magistrate trainees when observing their Magistrate Instructor during the scheduled informal hearings. You should observe the Magistrate Instructor as he/she proceeds through the informal hearing process. Note how your instructor performs each of the activities and record your comments on the following observational aids. Please review your comments and discuss them with your Magistrate Instructor.

Upon completion of your visitation, the *Magistrate Instructor Visitation Notice of Completion* must be filled out by the Magistrate Instructor and signed by both of you. The *Notice of Completion* must be returned by you before your preliminary authorization to conduct informal hearings will be granted. Return it with the *Judge's Authorization Form* and all other items from this manual that must be returned. (See page 13 in the Overview section, *Checklist of Training Materials to be Returned*.)



# Procedure for Informal Hearings

## Observational Aid I

### Instructions:

As you observe an informal hearing, check off the procedures below as the magistrate instructor completes each step.

- ☐ Call the names of the parties and identify all of the litigants.
- ☐ Give a brief explanation of informal hearings and the procedures of an informal hearing.
- ☐ Ask if all the parties are ready to proceed.
- ☐ Read the charge.
- ☐ Swear in the parties before taking testimony.
- ☐ Request the plaintiff's (citing officer's) testimony and also the testimony of any plaintiff's witnesses.
- ☐ Request the defendant's testimony and also the testimony of any defendant's witnesses.
- ☐ Allow plaintiff and defendant to question each other and each other's witnesses (through magistrate).
- ☐ Question the defendant, the citing officer and any witnesses to determine the facts.
- ☐ State the facts of the case, relate them to the applicable statutes and read the statutes to the parties.
- ☐ State the decision and the reasons for that decision.
- ☐ Call the next case.

# **Magistrate Communication and Control and The Setting for the Informal Hearing**

## **Observational Aid II**

**As you observe an informal hearing, watch for the following:**

**Communication:**

- ☐ Magistrate's ability to explain
- ☐ Magistrate's ability to listen
- ☐ Magistrate's attentiveness
- ☐ Magistrate's attire
- ☐ Magistrate's body language
- ☐ Magistrate's courtesy
- ☐ Magistrate's eye contact
- ☐ Magistrate's impartiality
- ☐ Magistrate's responsiveness to questions
- ☐ Magistrate's tone of voice
- ☐ Magistrate's ability to articulate decision

**Control:**

- ☐ Magistrate's control of the parties involved
- ☐ Magistrate's control of the flow of the proceeding
- ☐ Magistrate's maintenance of control at the conclusion of the informal hearing

**Setting:**

- ☐ Seating arrangements
- ☐ Flags
- ☐ Magistrate's desk/bench
- ☐ Appearance of the hearing room
- ☐ Availability of legal reference materials

**NOTES:**

# Magistrate Instructor Visitation Notice of Completion

Magistrate \_\_\_\_\_ of \_\_\_\_\_ District Court has completed the one-day magistrate visitation under my instruction. During this visitation, the following took place:

- 1) Gave overview of court procedures to the point of informal hearing.
- 2) Described preparation process for informal hearings.
- 3) Reviewed the physical setting for informal hearings.
- 4) Briefly described each case prior to hearing.
- 5) Discussed how parties appeared and cases were called.
- 6) Magistrate trainee viewed informal hearings.
- 7) Debriefed informal hearings covering the steps of informal hearing:
  - examined files for completeness;
  - called the case;
  - explained the proceeding;
  - read the charge;
  - administered the oath;
  - took the testimony;
  - decided the case;
  - imposed sanctions; and
  - completed case processing.

**Date of Visitation:** \_\_\_\_\_

**Host Magistrate Name:** \_\_\_\_\_

**Court:** \_\_\_\_\_

**Court Address:** \_\_\_\_\_

\_\_\_\_\_

**Court Telephone Number:** \_\_\_\_\_

\_\_\_\_\_

**Host Magistrate Signature**

**Date**

**Magistrate Trainee Signature**

**Date**



Please Return to:  
**Michigan Judicial Institute**